

February 7, 2024

VIA NYSCEF

Hon. Arthur F. Engoron
New York State Supreme Court
County of New York
60 Centre Street, Room 418
New York, New York 10007

Re: *People of the State of New York, et al. v. Donald J. Trump, et al.*
Supreme Court of the State of New York, New York County
Index No. 452564/2022

Dear Justice Engoron:

This letter is submitted in response to an e-mail correspondence dated February 5, 2023 wherein Your Honor referred to a recent *New York Times* article entitled “*Trump’s Former Finance Chief in Negotiation to Plead Guilty to Perjury*” (the “Article”)¹ and requested that counsel for both sides disclose “anything [we] know about this that would not violate any of [our] professional ethics or obligations” and provide a recommendation as to how Your Honor should “address this matter, if at all, including the timing of the final decision.”

As Your Honor is aware, my office represents Mr. Weisselberg in the instant civil litigation. We do not represent him in connection with any criminal matters. I have not spoken with the New York District Attorney’s Office (DANY) about any of the matters discussed in the *New York Times* article. Further, in an abundance of caution, I have conferred with my ethics counsel and have been advised that I am constrained by my professional ethical obligations from providing any further detail. No adverse inference should be drawn from my inability to respond.

As for how Your Honor should address this matter, no further action is necessary or appropriate. Matters outside the record such as outside media sources cannot influence the Court’s perception of this case or taint its view as to whether Mr. Weisselberg is a credible witness. It is well established that “[t]he courts must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences.” *Sheppard v. Maxwell*, 384 U.S. 333, 363 (1966). This holds true in a bench trial, where there is a “‘well-established presumption’ that ‘the judge [has] adhered to basic rules of procedure,’ when the judge is acting as a factfinder.” *Williams v. Illinois*, 567 U.S. 50, 69–70 (2012) (citations omitted). The *New York Times* article is neither

¹ See “*Trump’s Former Finance Chief in Negotiations to Plead Guilty to Perjury*,” William K. Rashbaum, Jonah E. Bromwich, Ben Protess, *The New York Times*, February 1, 2024, available at <https://www.nytimes.com/2024/02/01/nyregion/weisselberg-perjury-trump-fraud.html#:~:text=Allen%20H.%20Weisselberg%2C%20a%20longtime,knowledge%20of%20he%20matter%20said>.

admissible nor reliable, and it should not be considered in Your Honor's determination as to the merits of this case.

Further, Mr. Weisselberg is entitled to a presumption of innocence. *See, e.g., Coffin v. United States*, 156 U.S. 432, 453, 15 S. Ct. 394, 403, 39 L. Ed. 481 (1895) ("The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law."). Therefore, it would be wholly improper, and unconstitutional, for this Court to presume that Mr. Weisselberg engaged in any criminal wrongdoing in Your Honor's courtroom based solely on the publication of an unsourced and unverified news article. For this same reason, invocation of the doctrine of *falsus in uno* would be entirely inappropriate with respect to Mr. Weisselberg.

Therefore, it is respectfully submitted that the inadmissible and unsubstantiated *New York Times* article should not influence Your Honor's perception of Mr. Weisselberg's credibility as a witness or otherwise affect the ultimate outcome of this case, nor should it be the subject of further inquiry by this Court. We urge you to render your decision based solely on the evidence now before you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alina Habba', with a stylized flourish extending to the right.

Alina Habba, Esq.

For Habba Madaio & Associates LLP

cc: All Counsel of Record (by NYSCEF)